

Amendment Under 37 C.F.R. § 1.111  
U.S. Application No. 09/880,833

## **REMARKS**

Claims 1-19 are pending in the application. Claims 10, 11 and 13 are withdrawn from consideration as being drawn to a non-elected species. Claims 1-9, 12, 14 and 16-18 are rejected. Claims 15 and 19 are objected to but would be allowable if placed in independent form. No claims have been amended but new claims 20 and 21 have been added.

### *Election/Restriction*

Claims 10-11 and 13 remain withdrawn from further consideration pursuant to 37 C.F.R. § 1.142(b) as being drawn to a non-elected species. The Examiner concludes that there is no allowable generic or linking claim. Applicants have kept these claims pending in the application since Applicants believe that certain of the rejected claims that are generic, should be allowable for the reasons subsequently given.

### *Claim Rejections - 35 U.S.C. § 103*

**Claims 1-4, 6, 12-14, 16-17 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki (6,488,582) in view of Peppel (6,200,216).** This rejection is traversed for at least the following reasons.

As a preliminary matter, Applicants note with appreciation that the Examiner considered Applicants' Response on January 10, 2005 to be persuasive. Thus, the final rejection was withdrawn. However, the Examiner has supplemented the teachings of Suzuki with reference to the teachings of Peppel. For the following reasons, Applicants do not believe that the added teachings of Peppel are adequate to support a rejection of the claims.

### **Suzuki**

The Examiner comments that Suzuki teaches a card battle game where the battle occur in stages and each character card increases its power by virtue of winning battles at lower stages. The Examiner asserts that Suzuki does increase the power of an individual card per use during later battles.

This basic statement by the Examiner appears to be in error. Nothing in Suzuki concerns a "card battle game" or the use of "character cards", particularly those that increase their power

by virtue of winning battles at lower stages. Indeed, the word “card” is not used at all in the specification, other than to refer to the “memory card 5.” While the disclosure does concern action items (Fig. 7) or “elements” (Fig. 3A-3C), there is no teaching or suggestion in Suzuki that the games to which these items or elements relate are “card games.”

In contrast, the present invention is specifically directed to a game machine which enables a player and an opponent to play a battle by laying down their cards in the game screen. Thus, the invention is expressly focused on a card game that uses playing cards. The Examiner’s fundamental assumption in basing the invention upon Suzuki is erroneous and thus the entire rejection is defective. Further, as previously admitted by the Examiner, Suzuki does not teach a control device which increases the number of cards available in the battle when a player continues winning. Indeed, Suzuki could not teach anything related to a number of cards, since there is no teaching or suggestion that the game of Suzuki may be a card-based battle game.

At best, Suzuki teaches that the action power of a player character may be increased in accordance with the number of color attributes that have been obtained based upon actions executed by a character and identified by a command. The use of color attributes is not the same as the use of cards, as the present specification makes it clear that the cards envisioned by the invention and recited in the claims are those that can be stored in a deck where card information is read directly from the deck, as described at pages 1 and 2 of the specification.

### Peppel

The Examiner looks to Peppel for a teaching of the concept that cards may increase in power. Applicants respectfully submit that the reference does not remedy the deficiencies of Suzuki nor provide the teachings asserted by the Examiner.

The patent to Peppel is a general teaching of trading card-type activities involving electronic trading cards (ETC). The majority of the teaching in Peppel is focused on ETC trading cards, not on games.

The primary teaching of an ETC-based activity related to games appears at col. 10, line 59-col. 12, line 48. The specification states specifically at col. 10, line 62 that “ETC games are

distinct from existing computer or video games and that the game architecture includes dissociated components in the form of ETCs. This statement clearly teaches away from any combination of Peppel with a centralized gaming system such as Suzuki.

The Examiner notes that Peppel teaches ETC adventure games beginning at col. 10, line 66. At that location, Peppel suggests that the disclosed games are similar in structure to existing video and computer games except for a unique distinction: "they require ETCs to move the action of the game forward and in some cases also generate ETCs in the course of a game." However, there is no other teaching or suggestion as to how the ETCs may be used or generated. In particular, there is no teaching or suggestion that there is a control device which increases the number of cards available in a battle when the player continues winning. The increase in cards briefly referenced by Peppel may be through any number of reasons including additional payments or credits used.

The Examiner points to the teachings at col. 11, lines 4-15 for evidence that a particular character/card may be augmented or used as proof that a player has achieved the level of playing a game "such as winning a previous battle". This suggestion with regard to a previous battle comes from the Examiner's own hindsight, rather than from any teaching in the reference. Applicants' invention involve the specific increasing the number of cards based upon victories in battle. Nothing in any of the prior art references teaches or suggests such features.

With regard to claim 2, there is no teaching or suggestion of an increase in the number of cards available in a battle where there are a plurality of stages set by the control device where a player advances to a next stage after having one over respective opposing characters in a certain stage.

With regard to claim 3, a similar consideration is relevant. Also with regard to claim 3, Applicants submit that the phrase "a predetermined number of times" is stated as a plurality, which would be more than one. Thus, for the record, Applicants submit that this phrase defines a condition where there is more than one victory, contrary to the Examiner's assertion.

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Claim 4 requires the control device to enable loading of a plurality of card information steps pertaining to a plurality of cards on a computer readable medium. Nothing of this sort is taught in either reference.

With regard to claim 6, the use of a plurality of card information steps in a battle-type game is nowhere taught or suggested in either Suzuki or Peppel.

The same arguments as presented above would apply to claims 12-14, which concern a method of controlling operation of a game machine, and claims 16-18, which concern a computer readable medium.

**Claims 5, 7, 8 and 9 are Rejected Under 35 U.S.C. § 103(a) as being unpatentable over Suzuki and Peppel, as applied to claim 1, and further in view of Matsuno (6,729,960).** This rejection is traversed for at least the following reasons.

As a preliminary matter, Applicants note that Matsuno has a US filing date of June 29, 2000, only one month earlier than the priority date of the Japanese application from which the present application is derived (July 31, 2000). Accordingly, this rejection may be overcome by swearing behind the Matsuno reference by filing a Declaration under Rule 131. Knocking out even this third level reference would overcome the rejection. However, Applicants believe that this added step is not necessary, as the combination of references is deficient.

Matsuno does not remedy the deficiencies of the Suzuki or Peppel references. In this regard, it is noted that Matsuno is cited only for its teachings of the use of “enable flags” by a control device in order to reference code information from a data storage area.

#### *Allowable Subject Matter*

The Examiner considers claims 15 and 19 to be allowable if rewritten in independent form. These claims would be patentable due to their dependence on claims already demonstrated to be patentable.

#### *New Claims*

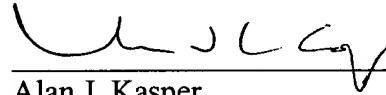
New claims 20 and 21 are added and are directed to features that are not present in any of the cited art.

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In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
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